REMARKS

Claims 1-21 and 23-33 are pending, of which claims 2, 3, 5, 9, 10, 12-14, 19, 28-31 are withdrawn and claims 1, 4, 6-8, 11, 15-18, 20, 21, 23-27, 32, and 33 stand rejected. All pending claims, as amended, as well as the newly added claims are believed to be allowable over the references cited by the Examiner as discussed below. Accordingly, a Notice of Allowance for the present application is respectfully requested.

Claim Objection

Claim 15 was objected to. Claim 15 is amended and the informality is believed to be removed. Objection to claim 15 is respectfully requested.

Rejection Under 35 U.S.C. §102(b)

Claims 1, 6-8, 16, 17, 20, and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Burbank.

Independent claim 1 generally recites a tissue cutting device having a probe, a cutting loop, and a cutting loop securing mechanism. Claim 1 is amended to recite that the cutting loop is generally disposed *outside* of the probe in the penetrating configuration.

In contrast, Burbank's cutting element 20 is mostly disposed *within* the probe when in the penetrating configuration. Thus Burbank fails to disclose or suggest that the cutting loop is disposed *outside* of the probe in the penetrating configuration as generally recited in claim 1 as amended.

Furthermore, claim 1 recites that the cutting loop exit (defined by the probe) is at an exit angle relative to the probe axis and that the cutting loop is at a cutting angle relative to the probe axis *generally defined by the exit angle.*

In contrast, Burbank's probe does not provide cutting loop exit that is at an exit angle relative to the probe axis, much less an exit angle that generally defines the cutting angle of the cutting loop. For example, as shown in FIGS. 17 and 18, the cutting element 20a freely extends out of slot 66 and its cutting angle relative to the probe axis is not affect by slot 66. In other words, slot 66 does not conform the cutting element 20a to any particular cutting angle. Slot 66 does not define an exit angle nor does slot 66 define the cutting angle of the cutting element 20a.

Thus Burbank fails to disclose or suggest that the cutting loop exit is at an exit angle relative to the probe axis and that the cutting loop is at a cutting angle relative to the probe axis generally defined by the exit angle.

In view of the foregoing, withdrawal of the rejection of independent claim 1 as well as claims 6-8, 16, 17, 20 and 21 dependent therefrom under 35 U.S.C. §102(b) is respectfully requested.

Claims 23, 24, 32, and 33 stand rejected under 35 U.S.C. §102(b) as being anticipated by Dulebohn.

Independent claim 23 also generally recites a tissue cutting device having a probe, a cutting loop, and a cutting loop securing mechanism. Similar to independent claim 1 as discussed above, claim 23 is also amended to recite that the cutting loop is generally disposed *outside* of the probe in the penetrating configuration.

In contrast, Dulebohn's surgical snare loop for removal of polyps is disposed *within* the probe during entry into a body cavity.

Furthermore, claim 23 explicitly states that the cutting loop is "*in* soft tissue during the releasing." Nonetheless, claim 23 is amended to further recited and clarify that the cutting loop is in contact with the soft tissue.

In contrast, Dulebohn's surgical snare is expanded *in the air* (not in soft tissue), looped around the polyp, and retracted to cinch around the neck of the polyp, thereby severing the neck of the polyp and removes the polyp with the snare holding the severed neck of the polyp. Dulebohn does not disclose or suggest expanding the snare in soft tissue. In particular, Dulebohn states "The wire is trained so that it assumes an intermediate snare loop size in an unrestrained free state." (Abstract, emphasis added). Snares cannot be extended easily in soft tissue. Rather, this can *only* occur in air which is where snares are designed to operate. Soft tissue is not an "unrestrained free state".

Withdrawal of the rejection of independent claim 23 as well as claims 24, 32, and 33 dependent therefrom under 35 U.S.C. §102(b) is respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 1, 4, and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Doll in view of Suzuki.

As noted above, independent claim 1 is amended to recite that the cutting loop is generally disposed *outside* of the probe in the penetrating configuration. In contrast, Doll's cutting element is housed within the probe during insertion into a body cavity.

Similarly, Suzuki also does not disclose or suggest providing a cutting loop that is generally disposed *outside* of the probe in the penetrating configuration.

Withdrawal of the rejection of independent claim 1 and dependent claims 4 and 15 under 35 U.S.C. §103(a) is respectfully requested.

Claims 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Dulebohn in view of Burbank. However, dependent claims 25-27 are believed to be allowable at least because independent claim 23 from which they depend is allowable as discussed above.

Withdrawal of the rejection of dependent claims 25-27 under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge

the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **50-1217** (Order No. **MNOAP006**).

Respectfully submitted,

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